

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AIR CHINA LIMITED,

: Case No.
07 CV 11128
(LTS) (DFE)

:

-against-

: NOTICE OF MOTION
TO DISMISS ALL
: CLAIMS FOR RELIEF

NELSON LI (a/k/a SHENG LI), :
JOHN A. VARACCHI (a/k/a JOHN A. DAVIS), :
GEORGE F. DONOHUE, JAY KOPF :
(a/k/a JACOB M. KOPF) CHRISTIAN M. DEUTSCH, :
WBM-JMK DEVELOPMENT LLC :
(d/b/a WBM INTERNATIONAL DEVELOPMENT), JMK :
CONSTRUCTION GROUP LTD., :
TCC INTERIORS, LTD., GMAC REAL ESTATE LLC, :
GMAC REAL ESTATE IPG NEW YORK, :

Defendants. :

-----X

S I R S:

PLEASE TAKE NOTICE that, upon the annexed Affidavit of Jay Kopf, duly sworn to July 17, 2008, and the exhibits annexed thereto, the annexed Affidavit of Susan Daniel, duly sworn to July 21, 2008, and the exhibit annexed thereto, the annexed Affidavit of Christian M. Deutsch, duly sworn to July 18, 2008, and the Affidavit of Edward Weissman, duly sworn to July 18, 2008; and upon all prior papers, pleadings and proceedings heretofore had herein, defendants shall move this Court, before the Honorable Laura Taylor Swain, United States District Judge, 500 Pearl Street, New York, New York 10007, Courtroom 17C, on the 12th day of August 2008, at 10:00 a.m. in the forenoon of that day or as soon

thereafter as counsel can be heard for an Order, pursuant to Fed.
R. Civ. P. 12(b)(6), as follows:

(a) Dismissing plaintiff's First through Tenth Claims for Relief as to all defendants for failure to state a claim;

(b) Dismissing all claims for relief as to defendants Christian M. Deutsch and GMAC Real Estate LLC on the additional ground that neither defendant had any involvement in the underlying transactions; together with such other, further and different relief as to the Court may seem just and proper.

PLEASE TAKE FURTHER NOTICE that, opposition papers, if any, shall be served upon the undersigned so as to be received in accordance with the applicable Local Rule and the Rules of this Court.

Dated: New York, New York
July 21, 2008

LAW OFFICES OF EDWARD WEISSMAN
By 
Edward Weissman, Esq. (EW-1340)
Attorney for Defendants
60 East 42nd Street
47th Floor
New York, New York 10165
(212) 937-1520

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AIR CHINA LIMITED,

: Case No.
07 CV 11128
(LTS) (DFE)

:
-against-

: AFFIDAVIT

NELSON LI (a/k/a SHENG LI), :
JOHN A. VARACCHI (a/k/a JOHN A. DAVIS), :
GEORGE F. DONOHUE, JAY KOPF :
(a/k/a JACOB M. KOPF) CHRISTIAN M. DEUTSCH, :
WBM-JMK DEVELOPMENT LLC :
(d/b/a WBM INTERNATIONAL DEVELOPMENT), JMK :
CONSTRUCTION GROUP LTD., :
TCC INTERIORS, LTD., GMAC REAL ESTATE LLC, :
GMAC REAL ESTATE IPG NEW YORK, :

Defendants. :

-----X

STATE OF NEW YORK)
)
) ss:
COUNTY OF NEW YORK)

JAY KOPF, being duly sworn, deposes and says:

1. I am denominated as a party defendant in this lawsuit and I am a principal of defendant JMK Construction, Ltd. I am fully familiar with all of the facts and circumstances hereinafter set forth and I submit this Affidavit in order to identify various documents which, material and relevant to the disposition of the instant motion to dismiss plaintiff's Claims for Relief.

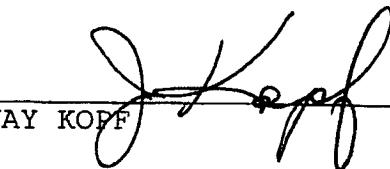
2. Annexed hereto as Exhibit "A" is a copy of plaintiff's Complaint. A copy of defendants' Answer is annexed hereto as Exhibit "B".

3. Annexed hereto as Exhibit "C" is a copy of the contract entered into by and between plaintiff Air China Limited

and defendant WBM-JMK Development LLC for the renovation of plaintiff's premises located at 485 West Broadway, Long Beach, New York.

4. Annexed hereto as Exhibit "D" is a copy of the amendment to the main contract described in the preceding paragraph.

5. This Court is respectfully referred to the accompanying Memorandum of Law for the reasons warranting the dismissal of plaintiff's complaint.



JAY KOPP

Sworn to before me this
17 day of July, 2008

Miriam Marshall
Notary Public

Miriam Marshall
Notary Public, State of New York
No. 4989855
Qualified in Westchester County
Commission Expires 4-23-201

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AIR CHINA LIMITED,

: Case No.
07 CV 11128
(LTS) (DFE)

Plaintiff,

:

-against-

: **AFFIDAVIT**

NELSON LI (a/k/a SHENG LI), :
JOHN A. VARACCHI (a/k/a JOHN A. DAVIS), :
GEORGE F. DONOHUE, JAY KOPF :
(a/k/a JACOB M. KOPF) CHRISTIAN M. DEUTSCH, :
WBM-JMK DEVELOPMENT LLC :
(d/b/a WBM INTERNATIONAL DEVELOPMENT), JMK :
CONSTRUCTION GROUP LTD., :
TCC INTERIORS, LTD., GMAC REAL ESTATE LLC, :
GMAC REAL ESTATE IPG NEW YORK, :

Defendants.

:

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STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

CHRISTIAN M. DEUTSCH, being duly sworn, deposes and
says:

1. I am denominated as a party defendant in this lawsuit. As I told the plaintiff's lawyer prior to my retention of counsel in this action, I have no knowledge whatsoever regarding any aspect of the project located in Long Beach, New York, which is the subject of this lawsuit. I wrote no letters, sent no e-mails, had no phone calls, received no profits, made no monetary contribution, and had no communications whatsoever regarding the subject matter of this lawsuit.

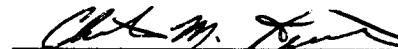
2. In fact, when I recently appeared in Court at a conference before Magistrate Judge Eaton, I met, for the first

time, many of the individuals with whom I allegedly "conspired" regarding the project in question.

3. As explained above, when I was served with the Summons and Complaint in this lawsuit, I told all of this to the plaintiff's counsel, but he, inexplicably, declined to discontinue the action as to me. I have no idea why.

4. I respectfully wish to tell this Court that the financial burden and stress placed upon someone like myself who is named in a lawsuit based solely upon an attorney's hunch or pure speculation, should not be tolerated.

5. I respectfully request that the Court dismiss the action as to me as there is no basis for me being a party defendant in this action.


CHRISTIAN M. DEUTSCH

Sworn to before me this
18 day of July, 2008


Notary Public

EDWARD WEISSMAN
Notary Public, State of New York
No. 31-4806821
Qualified in New York County
Commission Expires May 31, 2010

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AIR CHINA LIMITED,

: Case No.
07 CV 11128
(LTS) (DFE)

Plaintiff,

:

-against-

: **AFFIDAVIT**

NELSON LI (a/k/a SHENG LI), :
JOHN A. VARACCHI (a/k/a JOHN A. DAVIS), :
GEORGE F. DONOHUE, JAY KOPF :
(a/k/a JACOB M. KOPF) CHRISTIAN M. DEUTSCH, :
WBM-JMK DEVELOPMENT LLC :
(d/b/a WBM INTERNATIONAL DEVELOPMENT), JMK :
CONSTRUCTION GROUP LTD., :
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GMAC REAL ESTATE IPG NEW YORK, :

Defendants. :

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STATE OF NEW YORK)
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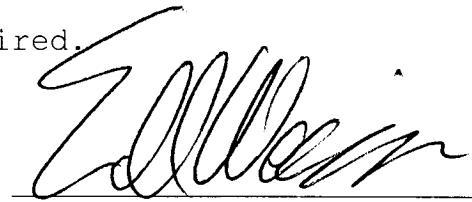
EDWARD WEISSMAN, being duly sworn, deposes and says:

1. I am a member of the Bar at this Court and I am
counsel for the defendants in the above-captioned action.

2. I submit this Affidavit in order to inform the Court
that prior to the making of this motion, each of the issues which
are the basis for seeking dismissal of the various Claims for
Relief in the complaint were shared with Jacques Cartafago,
counsel for the plaintiff. The communications took various forms,
including, a memo, an e-mail exchange and discussion by phone.

3. It is fair to say that counsel for Air China and
myself reached agreement on none of the issues which are the basis
for dismissal of the complaint. The filing and prosecution of

this Motion has been made, in compliance with the Rules of this Court, after it became evident that good faith efforts to attempt to resolve these issues directly had proved unavailing, and the intervention of the Court was required.



EDWARD WEISSMAN

Sworn to before me this
17th day of July, 2008



Notary Public

ILYSA M. MAGNUS
Notary Public, State of New York
No. 01MA4789741
Qualified in BRONX County
Commission Expires 2/28/2010